

Petitioner's Response to  
Staff Counsel's Motion to Dismiss

**Petitioner's Exhibit 9**

IN THE CIRCUIT COURT OF OGLE COUNTY, ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT

COPY

PEOPLE OF THE STATE OF ILLINOIS  
ex rel. ILLINOIS COMMERCE COMMISSION,

Plaintiff,

vs.

NEW LANDING UTILITY, INC., an  
Illinois Corporation

Defendant.

No. 96-MR-4

AT LAW AND  
IN CHANCERY

FILED  
JAN 25 1996

CLERK OF THE CIRCUIT COURT  
OGLE COUNTY

COMPLAINT FOR MANDAMUS, INJUNCTION OR BOTH, AND  
OTHER STATUTORY RELIEF

Now comes the Plaintiff, People of the State of Illinois ex rel. Illinois Commerce Commission, by its attorney, James E. Wewing, Special Assistant Attorney General, and pursuant to Section 4-202 of the Public Utilities Act, 220 ILCS 5/4-202, respectfully prays this Honorable Court for relief by way of mandamus, injunction, or both, and such other relief as the Court may find appropriate. In support of this Complaint, the following is stated:

COUNT I  
Separate Action at Law

1. Plaintiff, People of the State of Illinois ex rel. Illinois Commerce Commission (hereinafter "Commission"), is the administrative body created by the General Assembly and duly charged to regulate public utilities under the Public Utilities Act (hereinafter "Act"), 220 ILCS 5/1-101, et seq.

IN THE CIRCUIT COURT OF OGLE COUNTY, ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS  
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Defendant.

No. 96-MR-4

Please serve

New Landing Utility, Inc.

c/o Mr. Gene Armstrong

1111 South Boulevard

Oak Park, IL 60302

SUMMONS

To each defendant:

You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, in the Office of the Clerk of this Court, Ogle County Courthouse building, Room 337, 4th and Washington, Oregon, Illinois, within 14 days after service of this summons, not counting the day of service. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

(Seal of Court)

WITNESS, January 25, 1996.

MARTIN TYPER

CLERK OF COURT

BY: \_\_\_\_\_

DEPUTY

Date of Service: \_\_\_\_\_, 1996.

(To be inserted by officer on copy  
left with defendant or other person)

James E. Weging  
Special Assistant Attorney General  
Attorney for Plaintiff  
160 North LaSalle Street, Suite C-800  
Chicago, Illinois 60601  
(312) 793-2877

2-19-96



## ILLINOIS COMMERCE COMMISSION

Office of General Counsel

March 7, 1996

VIA FACSIMILE

Mr. Gene Armstrong  
1111 South Boulevard  
Oak Park, Illinois 60302

Re: People ex rel. Illinois Commerce Commission vs.  
New Landing Utility Inc.  
Ogle County Docket No. 96 MR 4

Dear Gene,

Pursuant to our telephone conversation, I am agreeable to extending the time in which New Landing Utility Inc., may file its Answer to Counts I and II of the Complaint, kicking the hearing on Counts I and II to some date thereafter, and to begin negotiations on the civil penalties due on the late gross revenue returns and taxes and the late annual reports, provided that two or three of the most recent gross revenue returns are faxed to the Controller's Office [ at (217) 524-9116] in Springfield by noon of Friday, March 8, 1996, and that a permanent injunction is entered against New Landing Utility Inc., its officers, agents and employees on Count III to enjoin New Landing Utility Inc., from failing (a) to file its annual gross revenue returns on time, (b) to pay its annual gross revenue tax on time, and (c) to file its annual report with the Illinois Commerce Commission on time.

Understand that if such an injunction is issued, New Landing Utility's Annual Report for 1995 will be due on April 1, 1996.

If we come to some agreement, I think the Court should be informed prior to the hearing, so that the Court does not waste time preparing for matters that are going to be continued.

Yours truly,

  
James E. Weging  
Special Assistant Attorney General

JEW/sr

COPY

IN THE CIRCUIT COURT OF OGLE COUNTY, ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT

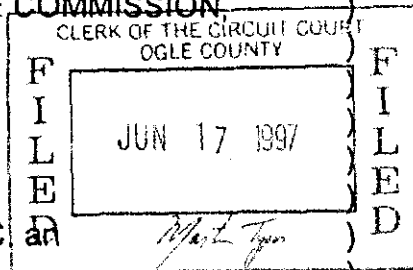
PEOPLE OF THE STATE OF ILLINOIS  
ex rel. ILLINOIS COMMERCE COMMISSION

Plaintiff,

vs.

NEW LANDING UTILITY, INC.  
Illinois Corporation

Defendant.



No. 96-MR-4

SETTLEMENT

Now come the Plaintiff, People of the State of Illinois ex rel. Illinois Commerce Commission, by its attorney, James E. Weging, Special Assistant Attorney General, and the Defendant, New Landing Utility, Inc., by its attorneys, Gene Armstrong of Chichocki & Armstrong, Ltd. and Wendy Howarter of McCarthy & Williams, and agree to the following settlement of the above cause.

- (1) New Landing Utility, Inc. agrees to pay a \$4,000 civil penalty arising out of its failure to pay its gross revenues taxes on time for the years 1986 through 1995 inclusive.
- (2) New Landing Utility, Inc. agrees to pay a \$1,000 civil penalty arising out of its failure to file its annual reports on time for years 1986 through 1994 inclusive.
- (3) New Landing Utility, Inc. agrees that, in the future, if its gross revenue taxes are not paid on time, New Landing Utility, Inc. will pay the applicable civil penalty automatically.

(4) The parties agree that the payment of the civil penalties will be \$500 per quarter, with the first payment due at the Controller's Office of Illinois Commerce Commission in Springfield, Illinois on June 30, 1997, and each further payment due at the same place on the last day of the quarter for the nine successive quarters.

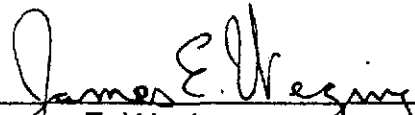
(5) The parties agree that the permanent injunction, entered by consent in the Court's order of March 11, 1996, as amended by the Order Nunc Pro Tunc of April 15, 1996, remains in full force and effect.

(6) In view of the above agreement, the People of the State of Illinois ex rel. Illinois Commerce Commission agree to the dismissal of the remaining Counts of the Complaint (Counts I, II and IV) with prejudice..

Whereby the parties to this Settlement agree to the entrance of the attached Agreed Order in complete settlement of the disputes herein.

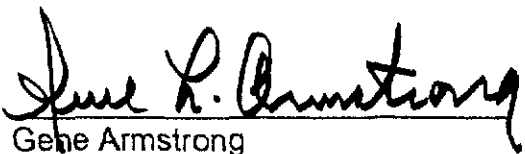
Date:

6/16/97

  
James E. Weging  
Special Assistant Attorney General  
On behalf of the People of the State  
of Illinois ex rel. Illinois Commerce  
Commission

Date:

6/17/97

  
Gene Armstrong  
On behalf of New Landing Utility, Inc.

COPY

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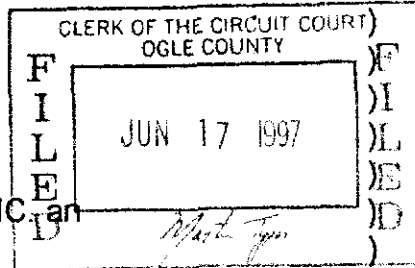
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Agreed Final Order

This cause coming on to be heard by agreement of the parties and the Court being advised in the premises.

The Court finds that the parties have entered into a settlement of all unresolved issues in the above cause and that said settlement is appropriate.

**IT IS HEREBY ORDERED that:**

- (1) the settlement of the parties is approved,
- (2) the permanent injunction, issued in the Court's Order of March 11, 1996, as amended by the Order Nunc Pro Tunc of April 15, 1996, remains in full force and effect and constitutes the complete resolution of Count III of the Complaint, and
- (3) the remaining Counts I, II, and IV of the Complaint are dismissed with prejudice.

Date:

6/17/97

*John B. Roe*  
Judge, John B. Roe